

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
EASTERN DIVISION (COLUMBUS)**

BRIAN ECHARD, HEATHER SHIMP, and  
PATRICIA FOLEY on behalf of themselves and  
all others similarly situated,

Plaintiffs,

v.

WELLS FARGO BANK, N.A.,

Defendant.

Case No.: 2:21-cv-05080-SDM-KAJ

Judge Michael H. Watson  
Magistrate Judge Kimberly A. Jolson

**CONSENT MOTION TO STAY  
DEADLINE TO RESPOND TO  
THE THIRD AMENDED  
COMPLAINT**

Defendant Wells Fargo Bank, N.A. (“Wells Fargo”), pursuant to S.D. Ohio Civ. R. 7.3 and Fed. R. Civ. P. 6(b), and for the reasons set forth in the accompanying memorandum, respectfully requests a stay of the deadline to respond to Plaintiffs’ Third Amended Complaint (ECF 148) until twenty days following entry of an order disposing of Plaintiffs’ Motion for Preliminary Approval of Settlement (ECF 108), provided that if the Motion is granted, Wells Fargo seeks to stay the deadline to respond to the Third Amended Complaint pending final approval of the proposed Settlement. Pursuant to S.D. Ohio Civ. R. 7.3(a), Wells Fargo certifies that it has conferred in good faith with counsel for Plaintiffs, who do not oppose the requested relief.

Dated: January 17, 2023

/s/ William C. Mayberry

William C. Mayberry

Amy Pritchard Williams

Andrew Atkins

*Admitted Pro Hac Vice*

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*Counsel for Defendant Wells Fargo Bank, N.A.*

**MEMORANDUM OF LAW IN SUPPORT OF CONSENT MOTION TO STAY  
DEADLINE TO RESPOND TO THE THIRD AMENDED COMPLAINT**

Defendant Wells Fargo Bank, N.A. (“Wells Fargo”) respectfully requests a stay of the deadline to respond to Plaintiffs’ Third Amended Complaint (ECF 148) until twenty days following entry of an order disposing of Plaintiffs’ Motion for Preliminary Approval of Settlement (“Motion”) (ECF 108), provided that if the Motion is granted, Wells Fargo seeks to stay the deadline to respond to the Third Amended Complaint pending final approval of the proposed Settlement. Specifically, Wells Fargo requests that the Court stay the response deadline until twenty days after it has issued a ruling on Plaintiffs’ Motion for Preliminary Approval (ECF 108) because that Motion requests, among other things, a stay of all non-settlement related proceedings while the settlement process is ongoing. This Court previously granted identical relief to Wells Fargo following Plaintiffs’ filing of the Second Amended Complaint. (ECF 122).

**ARGUMENT**

Under Federal Rule of Civil Procedure 6(b), a “court may, for good cause, extend” the deadline to file an answer “if a request is made[] before the original [deadline] expires.” Fed. R. Civ. P. 6(b)(1). The requirements set forth in Rule 6(b) are plainly satisfied here.

*First*, this motion is timely. Plaintiffs filed their Third Amended Complaint (ECF 148) on January 10, 2023; thus, under Rule 15, Wells Fargo’s response is due on January 24, 2023. *See* Fed. R. Civ. P. 15(a)(1)(3) (imposing fourteen-day deadline to respond to amended pleadings). This motion, filed on January 17, 2023, is clearly filed “before the original [deadline] expires,” thereby satisfying Rule 6(b)(1)(A)’s timeliness requirement.

*Second*, good cause exists to extend Wells Fargo's answer deadline. On September 9, 2022, Plaintiffs filed a Motion for Preliminary Approval of Settlement (ECF 108), requesting preliminary approval of a nationwide class action settlement agreement designed to resolve the claims involved in this case. In addition to preliminary approval, Plaintiffs' Motion requests a stay of all non-settlement-related proceedings in this action, including the deadline for Wells Fargo to answer or otherwise respond to Plaintiffs' Third Amended Complaint, pending final approval of the proposed Settlement (ECF 108-2 ¶ 13). The same day, Wells Fargo filed a Notice of Non-Opposition to Plaintiffs' Motion for Preliminary Approval of Settlement (ECF 114). This Court held a hearing on Plaintiffs' Motion for Preliminary Approval of Settlement on January 11, 2023, but has not yet issued a ruling.

Good cause exists to stay Wells Fargo's deadline given the pending Motion for Preliminary Approval, which, if granted, would stay all non-settlement proceedings and likely moot the need for any response to Plaintiffs' Third Amended Complaint. In other words, requiring Wells Fargo to comply with that deadline while the Motion for Preliminary Approval is pending would distract from the ongoing settlement-related proceedings and cause all Parties to unnecessarily expend time and money.

As detailed above, this motion is not filed for the purpose of delay and will work no prejudice to any party. Plaintiffs' counsel and Defendant's counsel have met and conferred in accordance with S.D. Ohio Civ. R. 7.3(a), and all Parties agree to the requested extension. Finally, a proposed order is submitted herewith in accordance with S.D. Ohio Civ. R. 7.3(a) and 7.4.

## **CONCLUSION**

Wells Fargo respectfully requests that Wells Fargo's deadline to respond to Plaintiffs' Third Amended Complaint be stayed until twenty days following entry of an order disposing of Plaintiffs' Motion for Preliminary Approval of Settlement (ECF 108), provided that if the Motion is granted, Wells Fargo seeks to stay the deadline to respond to the Third Amended Complaint pending final approval of the proposed Settlement.

Dated: January 17, 2023

/s/ William C. Mayberry

William C. Mayberry  
Amy Pritchard Williams  
Andrew Atkins

*Admitted Pro Hac Vice*

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